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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,699	11/11/2002	Erik Chell	125690-2	2347
23446	7590	03/23/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD			CHURCH, CRAIG E	
500 WEST MADISON STREET			ART UNIT	PAPER NUMBER
SUITE 3400				2882
CHICAGO, IL 60661				

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/065,699	CHELL ET AL.
	Examiner	Art Unit
	Craig E. Church	2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 December 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 7-13, 16-19 and 22 is/are allowed.
- 6) Claim(s) 1-6, 14, 15, 20, 21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

Claims 5, 6, 14, 15, 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5, 6, 20 and 21 describe how the apparatus may be used but fail to further define the structure recited in parent claims 1 and 18 as required. The structural limitations conveyed by "radial component" in claims 14 and 20 and "angular component" in claims 15 and 21 are unclear.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Vinegar et al (4613754). Vinegar teaches a calibration phantom comprising a plastic core 104 in which are embedded a circular arrangement of aluminum pins 108 (lines 35-45 of column 5).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinegar as above in view of Negrelli (5712895). Vinegar does not teach that the core comprises foam, but lines 35-37 of column 5 explain that the core "can be made of, for example,

Plexiglass or other suitable materials having low x-ray absorption". Since foam is of low density and exhibits low x-ray absorption, it would have been obvious to employ foam as Vinegars core material as taught by Negrelli who shows phantom 10 of foam (lines 14-16 of column 8).

Claims 7-13, 16-19 and 22 are allowed.

Applicant's arguments filed December 29, 2004 have been fully considered but they are not persuasive.

CLAIMS 5 AND 6 DO NOT FURTHER DEFINE THE STRUCTURE RECITED IN PARENT CLAIM 1 SINCE PARENT CLAIM 1 DOES NOT CLAIM A SOURCE OR DETECTORS.

With respect to claims 14, 15, 20 and 21, a "motion pattern" is not a structural element as alleged but rather is simply a geometric path or shape, and "radial component" and "angular component" per se are not meaningful.

Claim 1 recites a phantom, the structure of which is clearly anticipated by Vinegar. What the phantom may or may not be used for is not patentably germane.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Examiner Church at telephone number (571) 272-2488.

Craig E Church

Craig E. Church
Senior Examiner
Art Unit 2882